AMTRAK IN THE 21ST CENTURY

AMTRAK WORKING GROUP

REPORT TO THE

U. S HOUSE OF REPRESENTATIVES

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

MARCH 2006

TABLE OF CONTENTS

AMTRAK WORKING GROUP

Republicans:

Richard Baker, Louisiana

Vernon Ehlers, Michigan

Sam Graves, Missouri

Mark Kennedy, Minnesota

John Boozman, Arkansas

Democrats:

Elijah Cummings, Maryland

Jerrold Nadler, New York

Brian Baird, Washington

FOREWORD

The Committee on Transportation and Infrastructure is charged with jurisdiction over the nation's rail system. A major aspect of that jurisdiction is The National Railroad Passenger Corporation, better known as Amtrak, which has been a concern of the Committee for many years. Ensuring that efficient, reliable, and safe intercity passenger rail is available requires an examination of the current situation and recommendations to resolve ongoing problems.

In late 2005, an informal bipartisan working group of committee members was created to examine Amtrak's role and its performance as the major provider of intercity passenger rail service. The Amtrak Working Group (AWG) sought to highlight not only systemic management problems at Amtrak but also concerns about the irregular and inadequate funding received by Amtrak over the years. I believe this report will help guide future debate and ensure that intercity passenger rail service remains a vital component of our nation's integrated transportation network.

I want to thank Congressman Baker for his leadership, and all of the participants in the AWG for their time and attention in preparing a report that will assist the Committee in protecting and promoting changes to assist our nation's intercity passenger rail system as it prepares for the future. I urge my colleagues in the House to give the findings serious consideration as we work together to solve current and future passenger rail issues.

Sincerely yours,

DON YOUNG
Chairman

RICHARD HUGH BAKER
6TH DISTRICT, LOUISIANA

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Congress of the United States
House of Representatives
Washington, D.C. 20515–1806

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ECONOMIC OPPORTUNITY

March 17, 2006

The Honorable Don Young
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Young:

The Amtrak Working Group (AWG) has prepared the report "AMTRAK IN THE 21ST CENTURY" following an extensive review of materials provided by the GAO and the Amtrak IG as well as reviewing the Amtrak hearings conducted by the Subcommittee on Railroads in 2005.

This report seeks to highlight major concerns at Amtrak and recommend sustained oversight of Amtrak to ensure that the current problems are addressed. It is crucial that all stakeholders understand not only the current problems facing Amtrak but also work together to provide long-term oversight to rebuild an efficient intercity passenger rail system.

The AWG believes institutional changes need to occur within the management of Amtrak to guarantee the survival of intercity passenger rail. Both Congress and the Administration should work together to monitor the progress of proposed changes at Amtrak. Sustained oversight is essential to the future operational success of Amtrak and to ensure funding levels remain appropriate.

This Report is another step taken by the leadership of the Committee on Transportation and Infrastructure to ensure a balanced, efficient, safe and reliable transportation system for the 21st century.

Sincerely,

Richard H. Baker
Member of Congress

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EXECUTIVE SUMMARY

Amtrak Operating Environment

For more than one hundred years, the number one method of mass transportation in the United States was passenger rail service. Even though government subsidies of the rail industry had largely ended by the 1870's, the industry was robust enough to continue growing for the next 50 years.

The advent of automobiles and then airplanes, along with the public role of financing, eventually took its toll on the intercity passenger rail market. By 1970, it could no longer be sustained under the regulatory, labor, and business climates that existed. By that time public subsidies of highway and aviation industries far outstripped public financial support for passenger rail alternatives. In addition, rail companies at the time were required to maintain both passenger and freight routes even though they were no longer profitable; the companies were compelled to pay workers for years of additional service, even on lines that were phased out; and finally, the rail companies were competing with the shifting patterns of American travelers growing increasingly dependent on the expanding network of federally supported highways and airports.

In 1970, the Congress formed the National Railroad Passenger Corporation (now known as Amtrak) to take over passenger rail service from the private railroads. By the mid-1970's Amtrak had acquired the Northeast Corridor via legislation as well as several miscellaneous rail lines that now make up a small portion of the track used by Amtrak.

The vast majority of the Amtrak system is operated over the various freight railroad tracks located throughout the country. Amtrak pays the freight railroads a fee for operating on their tracks, while the freight railroads and the commuter services pay Amtrak for use of its tracks. However, Amtrak does not pay a *pro rata* share of the freight tracks it uses. It only pays the incremental increase in cost of having passenger rail operating on the freight rail system. On the other hand the price paid by commuter lines and freight railroads to Amtrak for the use of its track is much higher per mile than what they pay for non-Amtrak track usage.

The demands placed on railroad tracks by freight trains are quite different than those from passenger rail service. Freight runs at a slower pace but is much heavier. The result is a conflict in track configuration, maintenance demands, and scheduling when a common track is used by both systems.

Finally, it is useful to understand rail system scheduling conflicts to appreciate the operational management issues involving Amtrak. As currently operated, Amtrak is delayed by, as well as causes delays for, freight rail. Since the passenger trains travel faster, they frequently overtake the freight trains. Until a siding can be found to sidetrack the freight train, the Amtrak train must slow to the freight speed. This can be a reduction from 80 mph to 40 mph. When an adequate siding has been found, it may take as much as an hour to pull the freight off the active track, allow the Amtrak train to pass, and then resume the original routing at the appropriate speed. Both are delayed by a mismatch of speed when sharing a common track.

Amtrak Financial Management

Over the years, Amtrak has been called upon to serve two masters – provide nationwide passenger rail service over routes no longer in commercial demand while trying to operate as a commercially viable entity. The result has been a constant flow of federal subsidies even as the stated objectives have often included financial independence.

Over the 35 years of its existence, Amtrak has been subsidized at the average rate of nearly $1 billion per year. A significant sum, but by some accounts inadequate to overcome the maintenance and technology problems facing Amtrak as it attempted to restore a system in substantial decline. Unfortunately, the inconsistent and inadequate funding has been coupled with poor management decisions over the years. The result has been a private corporation which is heavily subsidized by the federal government, but which has not used the resources it has received efficiently.

From the Government Accountability Office (GAO)[1] report discussed below, it is clear that there are two primary problems. Amtrak receives inadequate, unpredictable funding and the funding it gets is mismanaged to such an extent that public and Congressional confidence is very low. Based on an aggregation of the findings and recommendations of the GAO report and the Amtrak IG reports on food and beverage as well as mechanical operations it appears that Amtrak could save as much as $250 million of its annual $1-1.3 billion subsidy without any alteration in its scope of service.

[1] Effective July 7, 2004, the Government Accounting Office changed its name to the Government Accountability Office.

Efficient use of an additional $250 million could readily be used by Amtrak to address serious maintenance, growth, and safety issues currently facing the company. When a concern is raised that Amtrak lacks funds to repair its bridges or install functioning financial systems, one need look no further than the inefficient way existing funding has been spent to see that lack of money is not the only reason corrective action has not taken place.

At the same time if Amtrak demonstrates that corporate funds are being spent wisely, it would go a long way to encouraging additional funding to support the national passenger rail transportation system. A well operated Amtrak, with its financial house in order, could also help reduce the congestion currently facing some of our highways and airports. It could also increase our security by providing additional alternatives when other transportation modes are compromised. Progress by Amtrak that would provide spinoff benefits in these areas would be welcome.

The GAO and the Amtrak IG have pointed out that some progress has been made in recent years at Amtrak in addressing the issues raised in their respective reports. However, two critical points remain. The first is that the level of fiscal responsibility remains seriously out of step with standard business practices. Therefore, while acknowledgement of improvement is noted, the task left to accomplish is extensive. The current state of affairs is unacceptable. The second and more telling point is a reflection on the concept of form over substance. It is easy to point to Amtrak's intended reforms. Even as the Committee's ongoing oversight has been conducted, hearings have been held, and reports have been written, Amtrak has proffered new initiatives to address the problems as they have been uncovered. Response to oversight is of course laudable. However, while some are willing to view the proposed reforms as accomplished initiatives, experience with Amtrak has shown that words and proposals are much easier to come by than solid change and financial accountability. The test is not how quickly a new policy can be articulated. It is how quickly the corporate culture can be changed so that every taxpayer dollar is viewed as a public trust and every aspect of the business is pursued with fiduciary efficiency.

Amtrak Governance

The issue of Amtrak governance must be addressed. In the years since Amtrak was established approximately 75 people have been nominated by 7 US Presidents to serve on the Amtrak board. When Amtrak was originally formed the private railroads that had donated equipment and the labor unions representing workers had seats on the Amtrak board, assuring that management included professionals with rail experience. However, between 1980 and 1997, few Amtrak board members had rail, transportation, or finance experience/backgrounds. Since 1997, when the Amtrak Reform Act was passed, only a few board members have had operational business backgrounds but even fewer have had detailed transportation sector experience. Simply put, the Amtrak board for several years was populated largely by individuals with political resumes rather than transportation experience. Even though the current board has the benefit of representatives with business experience, there are only four of them serving - a number that may be less than a legally effective quorum. Even worse, there are substantial questions whether any or all of them are serving under duly constituted terms. The Administration should promptly work with the Senate and take steps to fully populate the Amtrak board with qualified appointments.

As GAO expressly pointed out:

> "Amtrak's board of directors has a role in defining this mission, but until recently, the board has not been active in doing so. The chairman of Amtrak's board agreed that the board is responsible for establishing a mission for Amtrak, but the Amtrak board meeting minutes between February 2002 and August 2004 did not contain any written documentation of the board discussing a vision or mission for Amtrak. The board chairman said the absence of a full complement of board members had limited the board's ability to develop a mission for the company."[2]

[2] GAO, *Amtrak Management: Systemic Problems Require Actions to Improve Efficiency, Effectiveness, and Accountability,* GAO-06-145 (Washington, DC: October 4, 2005) at 46.

RECOMMENDATIONS

Important decisions must be made in tailoring our intercity passenger rail service to complement the other modes in our transportation mix. It must be made more efficient and financial resources must be allocated in a responsible fashion. A first step is to make sure Amtrak is put on the right track. This report does not attempt to answer all of the questions that are raised concerning the management of Amtrak or the solutions to the intercity passenger rail crisis we are facing. However, it is intent on highlighting the questions which must be addressed in the near term for the Congress to provide meaningful and objective oversight.

Management Initiatives

Amtrak needs to develop the management structure and use its resources to initiate major reforms that will improve passenger services, on-time operations, and operational upgrades. What's more, the GAO and Amtrak IG reports indicate that Amtrak can take these steps by using better business practices and saving millions of dollars that are currently being wasted. The savings generated from such reforms could then be properly channeled into those maintenance, repair, and replacement activities that upgrade the system and make operations safer and more efficient.

Congress and the Administration should work closely together over the next year to monitor Amtrak progress in adopting measures that will streamline its operations and make service more reliable and passenger friendly. To that end, adequate funding, which is tied directly to improved performance, must be provided to advance those goals. It is no longer credible to claim that

Amtrak's woes are simply tied to lack of financial support. It is apparent that Amtrak for years has been used to essentially pass through money without serious attention to how that money is actually being spent. However, Amtrak was not set up to be a grant agency.

Financial Reforms

Reforms that have been instituted at Amtrak in recent years should not go unacknowledged. But no organization could survive with the lack of business controls and fiscal restraint Amtrak has exhibited over the years. With Amtrak's record, even the new assortment of reforms, instituted since Chairman Young initiated the GAO request, must be monitored closely to make sure there is bedrock change rather than window dressing. It is important to note that reforms have tended to come when and where oversight has been initiated rather than systemically. What is needed is a system change. Increased federal subsidies alone will not solve the problems currently facing intercity passenger rail service. It must be coupled with a new sense of corporate responsibility and service to the ridership. New tools to enhance fiscal responsibility, appropriate funding, continued Congressional oversight, and operational reform, will provide the prerequisites to improve passenger rail service in America.

To address the financial weakness at Amtrak, steps must be taken to initiate serious independent oversight. Amtrak is not a public company in the sense that it does not issue securities through a public offering nor is it traded in an open market. Amtrak is not a public-sector agency, though it was created through federal government action. It is, however, reasonable to consider it "public" as it is heavily subsidized and almost entirely sustained by the U.S. taxpayer.

Because it is not a publicly traded company, the corporation is not subject to broad scrutiny by shareholders nor does it have a typically enforceable accounting regime. Similarly, there is limited oversight that can be exerted by the Amtrak Inspector General and the Department of Transportation Inspector General based on the scope of their responsibilities. While the FRA, in theory requires Amtrak to provide a myriad of reports, budgets, and forecasts the GAO found that FRA has exercised inadequate oversight. In response, the Secretary of Transportation, Norman Y. Mineta directed the FRA to require Amtrak to submit plans to improve financial reporting and management practices. The Secretary said he agreed with the GAO's findings and added "for the past several years, I have been urging Amtrak to clean up its act and become more accountable to taxpayers and the traveling public."[3] Time will tell how effective the new FRA initiative is at bringing additional fiscal accountability to Amtrak operations. The AWG certainly encourages FRA to take a broader and more proactive role concerning Amtrak.

Amtrak is not currently under the jurisdiction of a federal financial regulator and therefore outside the realm of explicit financial regulation. In contrast, there are government-sponsored enterprises, established by the Congress for specific purposes, which enjoy unique taxpayer benefits and which are in many ways more closely regulated in their financial affairs. Such entities include, or have included, Fannie Mae, Freddie Mac, Sallie Mae, the Federal Home Loan Bank System, the Tennessee Valley Authority, and Farmer Mac to name a few. Each of these organizations must submit to regular financial scrutiny to ensure that their public benefit is used in accordance with the enterprise's mission, and to hold the entity financially accountable to protect the taxpayer from unreasonable economic risk or financial harm.

[3] DOT press release, November 07, 2005

The AWG recommends that the GAO conduct a review of private and public accountability standards and report to the Committee by June 30, 2006, which standards could best apply to Amtrak. We recommend that the Committee use the information from GAO to craft legislation that requires Amtrak to prepare monthly, quarterly and annual financial statements, compliant with Generally Accepted Accounting Principles, which the chief executive officer and the board of directors must certify as to their accuracy and which must be filed with a public agency. Under such legislation Amtrak should be subject to regular accounting scrutiny by an independent auditor with federal enforcement powers, either via the Securities Exchange Commission or an empowered regulator with such specific authority. If GAO is unable to conduct such a study by June 30, 2006, we recommend that immediate steps be undertaken to enact legislation by the end of fiscal year 2006 which is consistent with the disclosure and audit provisions outlined above.

Along with the observations expressed above, the AWG also notes that future financial commitments need to be tied to a clear vision of where America's intercity passenger should be headed for the future. Over the years, deep cuts in Amtrak funding have been rejected by Congress. On the other hand, Amtrak cannot attain operational efficiency, repair the backlog of inherited capital investment shortfalls, and provide improved passengers service unless adequate funding is provided and properly spent. The task over the next 5 years should be for Congress to work with the Administration to ensure that real reforms are implemented in conjunction with fair and adequate funding. We also strongly urge the Committee to require Amtrak to be subject to the stringent requirements of Sarbanes-Oxley – so Amtrak's executives are held to the same standards as other American executives. Congress must have a clear and honest picture of Amtrak's financial situation in order to ensure responsible use of taxpayer grant dollars.

Broader Intercity Passenger Rail Goals

As we develop a 21st century approach to intercity passenger rail, we must look to the synergistic benefits that will address other pressing transportation needs. One of the most direct impacts is on the freight rail system. Developing a more efficient and synchronized approach to train schedule management will be another step toward shifting part of the bulk goods transportation burden off overcrowded highway corridors and onto rail.

Better management would also encourage more passenger traffic on selected Amtrak routes. This has three benefits: increased revenue to Amtrak; reduced traffic on certain congested highway corridors; and faster travel for passengers currently traveling on some midrange air routes.

Ongoing oversight of Amtrak should also evaluate both sides of the security issues involving passenger rail service. The assessment needs to look at both how Amtrak is impacted by Homeland Security questions and how Amtrak can increase our overall national security by providing alternate transportation opportunities when other modes of travel are compromised.

Future Issues to Address

As the Committee continues its oversight of Amtrak, the following issues should be addressed. Some of them are in the purview of the Amtrak board and management; others must be addressed by Congress and the Administration.

The AWG notes that the GAO experienced substantial delays and lack of cooperation in the delivery of documents and information by Amtrak. This lack of cooperation with the GAO by Amtrak substantially undermines its credibility. By impeding GAO's delivery of the October 2005 report to Congress by several months, Amtrak showed unacceptable disregard for the Congressional oversight process that must be addressed in future proceedings.

Although future issues may be also arise, it is clear that the following questions concerning Amtrak operations, policies, and executive performance are of concern to the AWG:

1. Why has the Amtrak board not been fully populated with qualified board members?

2. Why doesn't Amtrak have a comprehensive mission statement and a strategic plan relating to its role in the transportation sector, to guide the corporation?

3. Why are financial reports so faulty that they take months to correct, certify, and release to the public?

4. Why is Amtrak's financial accounting system so ambiguous that only a small percentage of its costs can be allocate directly – requiring the rest to be guesstimated?

5. Why hasn't Amtrak implemented either a Sarbanes-Oxley or government style of financial disclosure program to make its operations transparent to the Congress, its creditors, and the public?

6. Why are Amtrak's internal data management and retrieval systems so weak that routine inquiries regularly take weeks or months to address?

7. Why doesn't Amtrak have a comprehensive cost control strategy when it is losing over $1 billion annually?

8. When Amtrak is losing more than $80 million/year on its food and beverage service, why was/is it so difficult for the corporation to provide basic cost and expense data concerning those operations, as promised at the June 9, 2005 Rail Subcommittee hearing?

9. Why does Amtrak fail to prioritize spending, allowing a bridge on its premier line to fall into serious disrepair while at the same time continuing to lose two dollars for every one it earns on its food and beverage service?

10. Why does Amtrak award so many of its service contracts without competitive bidding? And why are those contracts inadequately overseen?

11. Why does Amtrak lack the data collection and management systems to base its fleet repairs on operational efficiency and reliability?

12. Why has Amtrak made so few adjustments to its route system since 1997, and what routing/frequency changes could be undertaken to manage its resources more effectively?

13. Why does Amtrak's in-house legal office consistently fail to follow its own billing guidelines?

14. Why are Amtrak executives paid bonuses even when the corporation is poorly managed and employees are asked to sacrifice for the good of the institution?

15. Why are Amtrak overhead expenses so high?

16. Why hasn't the Amtrak board retained independent counsel to protect the corporation and ensure board members are fully and independently aware of their fiduciary obligations?

17. Why is on-time performance so low and what should be done to correct it?

18. What can be done to improve customer service at Amtrak?

19. How can Amtrak improve its scheduling and operational management to increase reliability and reduce track conflicts with freight and commuter users?

20. What mechanism can be undertaken to assure intercity passenger rail receives an adequate portion of the federal transportation, as a viable portion of the transportation mix?

We recommend that future Amtrak oversight continue to be conducted by the full Transportation and Infrastructure Committee to encourage all Committee members with appropriate expertise and interest to remain engaged. This will ensure that all resources are brought to bear in addressing Congress' oversight responsibilities. With the continuing cooperation of the Rail Subcommittee, many of the issues below can be addressed.

SECTION I - Introduction

In October 2005, the Government Accountability Office (GAO) issued a report to Chairman Don Young of the Committee on Transportation and Infrastructure in the U.S. House of Representatives entitled AMTRAK MANAGEMENT: Systemic Problems Require Actions to Improve Efficiency, Effectiveness, and Accountability, GAO-06-145 ("Amtrak Management Report").

In December 2005, Chairman Don Young asked an informal bipartisan group of members of the Transportation Committee (the "Amtrak Working Group" or "AWG") to review this GAO work, as well as materials developed by the Amtrak Inspector General, the Transportation Committee's Oversight and Investigation staff, and other relevant matters pertaining to Amtrak.[4] The Chairman sought this information so that all members of the Transportation Committee would be informed as the Committee continues the long journey of reforming Amtrak into a vital part of America's infrastructure system.

The focus of the effort was to look at the information concerning Amtrak's management practices, how it acquires its goods and services, and the accuracy of the information provided to Congress and the public. It was important in the course of the review to gain a broader understanding of the environment in which Amtrak operates to evaluate the management practices reported on by GAO and the Amtrak IG's office. In the end, the Working Group was charged with recommending where the Committee should proceed from this point, given the issues of mismanagement and inconsistent funding of the Amtrak operation.

[4] Letter from Chairman Don Young to Congressman Richard Baker, attached to this report as Appendix I

<u>History of Amtrak</u>

Amtrak was created by the Rail Passenger Service Act of 1970 (P.L. 91-518) and began operating on May 1, 1971. The RPSA created Amtrak as a for-profit corporation. Amtrak's authorizing statute was amended by the Amtrak Improvement Act of 1978 (P.L. 95-421) to read "Amtrak shall be operated and managed as a for-profit company" (49 U.S.C. Sec. 24301(a)(2)). The Conference Report noted that the bill removed Amtrak's for-profit status but required that the corporation be "operated and managed as" a for-profit corporation (H.C.R. 95-1478).

Amtrak's creation was a result of the "nationalization" of the assets of the Penn Central and other railroads. Congress had noted the financial difficulties of private sector passenger rail service since at least 1958. Penn Central was the nation's largest railroad with 96,000 employees and a payroll of $20 million a week. In 1970 it became the nation's biggest bankruptcy and sought a bailout. The events leading up to the creation of Amtrak were described as follows:

> "the banks were not interested in the [Federal Reserve's loan] proposition unless they could be assured the taxpayer would co-sign the loans and guarantee payment. So the action inevitably shifted back to Congress. Penn Central's executives, bankers, and union representatives came in droves to explain how the railroad's continued existence was in the best interest of the public, of the working man, of the economic system itself. The Navy Department spoke of protecting the nation's 'defense resources.' Congress, of course, could not callously ignore these pressing needs of the nation. It responded by ordering a retroactive, 13 1/2 per cent pay raise for all union employees. After having added that burden to the railroad's cash drain and putting it even deeper into the whole, it then passed

> the Emergency Rail Services Act of 1970 authorizing $125 million in federal loan guarantees. ("Congress Clears Railroad Aid Bill, Acts on Strike,' 1970 Congressional Almanac, pp 810-816). None of this, of course, solved the basic problem, nor was it intended to. Almost everyone was aware that eventually the railroad would be 'nationalized,' which is a euphemism for becoming a black hole into which tax dollars disappear. This came to pass with the creation of AMTRAK in 1971 and CONRAIL in 1973. AMTRAK took over the passenger services of Penn Central, and CONRAIL assumed operation of its freight service…By 1998, Congress had dutifully given [AMTRAK] $21 billion, and its liabilities still exceeded assets by an estimated $14 billion."[5]

Passenger rail service had been unprofitable for many years before 1970. According to the Congressional Research Service (CRS) passenger rail losses date back to at least 1955. John Volpe, Secretary of Transportation during the Nixon Administration, asserted during Amtrak's creation that it could eventually be profitable; on some occasions, he said it could achieve profitability after three years. However, in these statements he attached two conditions to that prediction: that the federal government provide significant capital funding to produce high speed trains on short haul corridors where profitability was possible, as well as providing other improvements in service; and that the size of the passenger network would be cut back to the point that the profits from the successful corridors would be sufficient to subsidize the remaining routes.

Amtrak's fastest train in 2002, the Acela, averages 85 mph between Washington, D.C. and New York City, compared to the Metroliner which averaged 80 mph over the same route before Amtrak

[5] G. Edward Griffin, The Creature from Jekyll Island: A Second Look at the Federal Reserve (California: American Media, 1998), pp. 41-45.

was created. Amtrak's route mileage in 2005 was 23,000 miles; its route mileage in 1971 was 23,000 miles. Thus, neither of the two conditions specified by those who initially predicted profitability for Amtrak has been achieved.

Amtrak, arguably, may be unique among historic and prospective railroad debtors. Although originally created as a "for-profit" company to provide national, intercity passenger rail service, financial self-sufficiency has never been realized and Amtrak has been dependent upon federal subsidies to maintain operation, receiving over $30 billion in federal aid since inception.

Congress passed the Amtrak Reform and Accountability Act of 1997 to address Amtrak's dependence on federal subsidies.[6] The law created a goal of operational economic self-sufficiency by 2002. Among other things, it created the Amtrak Reform Council. The Council was charged with the responsibility to assess the likelihood of Amtrak meeting the mandated goals. If the Council found that the goals were unlikely to be met by 2002, it was to "develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system," while Amtrak itself would "develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness."[7]

The law sets out a proposed procedure for consideration by the Senate of a restructuring or liquidating plan proposed by Amtrak or the Reform Council.[8] To date, despite Amtrak's lack of operational self-sufficiency, the Congress has not pursued a course recommending or mandating

[6] GAO Report at 105-134.
[7] Id. At 204 c 1 & 2
[8] Id. At Sec. 205.

Amtrak's liquidation, but has provided temporary additional funding. Instead, Congress expressly forbade preparation of a liquidating plan until the Congress has enacted an Amtrak reauthorization Act.[9]

The Amtrak Reform and Accountability Act instituted employee protection reforms by establishing special arbitration and mediation procedures under the Railway Labor Act and by extinguishing specified employee protective arrangements and severance benefits applicable to employees of Amtrak. It expressly rendered inapplicable 11 U.S.C. 1172 (c) to Amtrak employees. Amtrak's labor costs, however, continue to represent a major segment of its operating costs.[10] For example, Amtrak's on-board labor costs represent over half of Amtrak's food and beverage total expenditures according to both the GAO and Amtrak Inspector General.

The 1997 Reform Act also set a goal for Amtrak to run without federal operating subsidies by December 2002. However, in 2002 Amtrak was in need of a bailout, as recounted by the Congressional Budget Office (CBO):

> "early in the summer of 2002, it [Amtrak] exhausted the federal subsidy of $521 million that had been appropriated for fiscal year 2002 and had been intended to last through September. Threatening to shut down operations around the time of the July Fourth holiday…Amtrak sought and received a federal loan of $100 million [from DOT]."[11]

[9] P.L. 107-117, Sec 1102.
[10] CRS Report RL31550: *Railroad Reorganization Under the U.S. Bankruptcy Code: Implications of Filing by Amtrak.* January 2005 by Robin Jewler at 5-6.
[11] CBO, The Past and Future of U.S. Passenger Rail Service September 2003 at ix.

Congress additionally passed a supplemental appropriation of $205 million for the remainder of 2002 and another $1.05 billion for 2003.

The CBO study further notes that David Gunn became President of Amtrak in May of 2002. He was subsequently fired by the Amtrak board of directors in November 2005 shortly after release of the GAO Report. Chief Engineer David Hughes was named acting President and a search for a new president is ongoing. Amtrak has hired an executive search firm and the AWG urges the Committee to follow that hiring process closely.

Current Budget and Authorization of Amtrak

Amtrak's authorization expired in December 2002. Reauthorization issues in the 109th Congress include Amtrak's funding level, the size of its network, the introduction of competition for routes, and Amtrak restructuring. On April 14th, 2005, the Bush Administration sent its Amtrak restructuring proposal, the Passenger Rail Investment Reform Act (introduced as H.R. 1713), to Congress. On November 8, 2005, the House Committee on Transportation and Infrastructure reported out of committee an Amtrak reauthorization bill (H.R. 1630) that provides $2 billion a year to Amtrak for FY2006-2008. That bill does not include provisions to restructure Amtrak.[12]

On October 18, 2005, the Senate Committee on Commerce, Science, and Transportation reported S. 1516 to authorize Amtrak for FY2006-FY2011. The bill would provide an average of $1.9 billion

[12] CRS Report IB10147: *Amtrak: Budget and Reauthorization.* January 2006 by John Frittelli and David Randall Peterman at 1.

annually. It would not restructure Amtrak, but would impose standards for performance. The bill would also authorize the issuance of $13 billion in bonds for Amtrak capital improvements.[13]

Materials Reviewed For the AWG Report

In the course of the review, the Working Group members and their staff and/or the Transportation and Infrastructure Committee Oversight staff, reviewed the following reports and documents: GAO Report, *Amtrak: Management and Accountability Issues Contribute to Unprofitably of Food and Beverage Service,* GAO-05-761T (June 2005); GAO Report, *Amtrak Management: Systemic Problems Require Actions to Improve Efficiency, Effectiveness, Accountability,* GAO-06-1145 (October 2005); Amtrak Office of Inspector General Evaluation Report: *Amtrak Mechanical Maintenance Operations*, Report E-05-04, (2005)*;* Amtrak Office of Inspector General Evaluation Report: *Amtrak Food & Beverage Operation: Evaluation of FY 2003 Performance* (2005).

The Working Group and staff also received briefings either collectively or individually from the following entities: Amtrak, the Amtrak Office of Inspector General, the GAO and the Federal Rail Administration (FRA), Department of Transportation. In addition, information was reviewed from the Amtrak board of directors (at public hearings), the Congressional Budget Office, the Congressional Research Service, Amtrak's Guidelines for Outside Counsel, Amtrak's Strategic Reform Initiative, Amtrak's Articles of Incorporation and Bylaws, and breadth of other public documents.

[13] CRS Report at 1.

SECTION II – Amtrak On Track

Intercity Passenger Rail In The 21st Century

The United States passenger transportation system must currently meet a diverse set of demands in terms of destinations, times, costs, and purposes. Rail transportation has been and continues to be a vital part of that mix.

Intercity passenger rail must compete directly with air, car, and bus transportation. In some markets passenger rail represents up to 50% of the business travelers between major cities. It can be a cost-effective and efficient use of resources.

Unfortunately, Amtrak has not met that challenge in many areas through missed management opportunities and because of lack of federal support. Even though the federal government has spent approximately $30 billion since Amtrak was formed in 1970, the effort has floundered.

Some believe Amtrak's performance has suffered from inadequate funding, while others point to squandered resources. From reviewing the information made available to the Working Group, it appears to be both. The full equation must be addressed if America is going to have a passenger rail system that plays its proper role in our growing intermodal economy.

The first step in setting Amtrak on sure footing for the future is to address the many questions raised by the GAO and IG reports that are highlighted in Chapter 3. It appears that there are potentially hundreds of millions of dollars within the existing Amtrak operation that can be saved and used for high priority improvements. Fortunately, in Amtrak's briefing and response to the Working Group, managers indicated solid support for the recommendations. Since that time, information from the Amtrak IG's office indicates that reform efforts are underway. As noted in the GAO report, it will be critical for the Amtrak board, the FRA, and the Congress to follow through in overseeing that the issues raised are addressed and that the reforms are implemented.

Passenger Service

As Amtrak moves into a new era of efficiency and accountability it must recommit to analyzing and meeting the needs of passengers using their system. The first priority must be greater dedication to on-time service. This will require developing a better scheduling system with the other users of the tracks and increasing equipment reliability.

For too long passengers on Amtrak trains have contended with inadequate heating and cooling, unclean restrooms, and inoperable amenities. With the new dedication to keeping the Amtrak fleet repaired and serviced such problems should begin to improve. This must also be coupled with a renewed spirit of service by Amtrak personnel.

Meeting the Markets

It is clear that an analysis of Amtrak's routing is in order. Amtrak should look at where passenger service is needed by the marketplace and where markets can be developed. Routes that have been very lightly used for years should be reconfigured or dropped. Importantly, there will be significant differences between service designed to meet the needs of short-haul/high-volume lines and long distance travel where "getting there is half the fun." Amtrak needs to tailor its service wherever located, to the nature of the market.

Funding improvements

Finally, it is critical for Amtrak to develop a strategic plan based on the reform measures and a new vision. That plan can then be submitted to the Congress for support. The challenge, which must be met by the Administration and Congress, is to find a mechanism to provide reliable funding of an efficient intercity passenger rail system. Consideration must be given to not only the efficient operation of a rail system, but also to the relative impacts and benefits on other modes of travel, competing environmental impacts, and increased security based on transportation diversity.

SECTION III – Review of Reports

Amtrak Working Group Review of GAO'S October 2005 Report: "AMTRAK MANAGEMENT-Systemic Problems require Actions to Improve Efficiency, Effectiveness, and Accountability"

As a preliminary item, the Amtrak Working Group notes that the GAO reported to the Working Group Members and staff that substantial delays in the delivery of documents and information were encountered from Amtrak. This impeded the delivery of the GAO report to Chairman Young by several months. As a result, the GAO report was issued nearly two years after Chairman Young's letter of request to GAO in December 2003.

At the request of the AWG, GAO compiled a chronology of its year long quest to obtain the documents necessary to conduct its review (see Appendix II). GAO and Committee staff reported one such example of a key data request, Amtrak's "Spend Analysis." Despite repeated attempts to obtain this information over several months GAO never obtained the data because Amtrak later determined that they did not in fact maintain such data. In essence, it took several months just for Amtrak managers to determine they did not have these key data reports.

The Amtrak Working Group recognizes that the breadth and depth of the GAO's work on Amtrak was significant with a large team of GAO personnel devoting hundreds if not thousands of man hours to bring about their final product. While the AWG recognizes that GAO was often frustrated by delays in receiving requested materials from Amtrak, the AWG wants to also acknowledge as well the commendable efforts by many Amtrak individuals in giving their best efforts to comply with GAO's unprecedented document requests. Given the broad scope of GAO's report (150 pages) the

AWG desires to have the full Committee Membership apprised of the GAO's executive summary of that work. Accordingly, the GAO executive summary follows as Appendix III.

GAO Report Summary, Analysis, and Questions for Committee Consideration

In the course of doing its report, GAO interviewed Amtrak management officials, including board members, Amtrak's independent public accountant, KPMG, other freight and commuter railroads as well as VIA Rail Canada. GAO observed Amtrak's internal control practices, reviewed a sampling of service contracts such as food and beverage; and reviewed a sample of invoices for outside legal services.

The overall results of GAO's work indicated "systemic" problems in all five areas. It found that:

1) Amtrak lacks a comprehensive strategic plan to ensure cost-effective results;

2) Amtrak's financial reporting and financial management is weak, limited, and often unreliable;

3) Amtrak's annual losses are projected to increase 40% from $1 billion to $1.4 billion over the next few years;

4) Amtrak's procurement and acquisition practices lack efficiency, cost effectiveness, and accountability and;

5) Amtrak has inadequate oversight of or accountability for performance and results.

Taking each of the five areas that GAO covered in turn, GAO found fundamental lapses in basic corporate "strategic planning" or what is commonly referred to as basic business planning.

Amtrak Needs Fundamental Strategic Business Planning and Corporate Goals.

Concerning strategic planning, covered in Chapter 2 of the GAO report, GAO found that Amtrak has neither a written mission statement nor any corporate-wide goals linked to the pursuit of such a mission statement or business plan. "Also absent is a comprehensive strategic planning process, characteristic of leading organizations GAO has studied."[14] A basic question the AWG believes Amtrak and for the Committee should follow up on, therefore, is "How does Amtrak define itself as a business?"

Amtrak appeared before the AWG in December via Acting CEO, Mr. David Hughes, who submitted a draft "Recommendations for Executive Action" that seeks first and foremost to identify such a mission statement with corresponding goals. The Acting CEO recently met with Amtrak board members on this topic. Accordingly, some development of a corporate mission statement is under way. Amtrak has provided the AWG with a final copy of their Recommendations for Executive Action which attached as Appendix IV.

GAO noted in its report that Amtrak developed a working product entitled Strategic Reform Initiatives and FY 06 Grant Request in April 2005 containing a "new vision statement that would

[14] GAO Report at Highlights

substantially change how the corporation operates."[15] However, GAO recognized that the proposal's implementation would "require both legislative changes" and "extensive changes internally at Amtrak."[16] In essence GAO points out that Amtrak's Strategic Reform Initiative is outside the fundamentals of basic business planning because it relies on critical components/assumptions that are not within the purview of Amtrak managers.

The exercise of taking a few baby steps by Amtrak in executing a strategic plan with realistic corporate goals would go a long way to restore Amtrak's credibility. It would provide confidence that Amtrak is capable of implementing any legislative changes that may become necessary to assist it in pursuit of a well defined set of corporate mission statements and goals.

In 2002, Amtrak stated its goal was to achieve a "State of good repair." This is a not an acceptable or comprehensive business plan. Amtrak needs to establish a fundamental business plan with a clear mission statement and corporate goals as soon as possible.

To build on the strategic planning efforts already under way at Amtrak, GAO recommended that Amtrak's president (or current acting president) take the following four steps to create a strategic planning and performance-based management approach:

1) Prepare a comprehensive strategic plan with a clearly defined mission, organization goals and objectives that that encompass all of Amtrak's activities, strategies and action plans to achieve those goals;

[15] GAO Report at 4
[16] GAO Report at 4

2) Establish annual performance goals that tie to the mission and corporate goals;

3) Develop a performance based management system that ensures responsibility for those goals;

4) Develop the data systems and processes necessary to monitor, evaluate and report, internally and externally, on progress toward Amtrak's mission and goals.

These are matters that can be carried out immediately by Amtrak and the AWG urges the Committee to take all necessary action to ensure these GAO recommendations are implemented.

<u>Amtrak's Financial Reporting and Internal Controls Remain Weak.</u>

GAO found that Amtrak financial reports often lacked relevant information and contained a significant number of errors. Amtrak further has insufficient data mining capabilities, lacking adequate data on what it spends on goods and services. Amtrak's monthly reports were of questionable reliability with incorrect information that needed substantial subsequent adjustment.[17]

Lack of usable data prevents Amtrak from performing a "spend analysis" which would identify areas in order "to leverage buying power and reduce costs." GAO recognized that Amtrak has made

[17] GAO Report at 64

progress in recent years addressing internal control weaknesses but also found that more could be done to increase transparency and usefulness of information.[18]

Amtrak's cost data are unreliable. Of $4.3 billion in costs for 2002-03, only $357 million was directly assigned to each train line. Amtrak allocated the other costs to the various lines using arbitrary formulas.[19] GAO found that these formulas were unsupported. Amtrak has made many large accounting errors. In 2002, it reported $44.4 million in depreciation when the real number was $479 million.[20] From 2002-04, Amtrak understated employee benefit expenses by $105 million. This resulted in a loss of $12 million in revenue.[21] Amtrak needs better business tools to more effectively manage and report its finances accurately.

To ensure that Amtrak's financial reporting and management practices support sound business decisions and the efficient and effective use of federal funds provided to Amtrak, GAO recommended that the Secretary of Transportation direct the Federal Railroad Administrator take the following three actions:

1) Require Amtrak to submit a plan, which includes specific actions to be taken with anticipated outcomes and completion dates to improve its financial reporting and management practices;
2) Review and provide Amtrak with feedback and direction as necessary on Amtrak's financial management plan; and

[18] GAO Report at 64, 83
[19] GAO Report at 69
[20] GAO Report at 69
[21] GAO Report at 71

3) Monitor Amtrak's performance under the plan and have FRA report at least annually to Congress on Amtrak's progress implementing the financial management plan.

These are matters that can be carried out immediately and the AWG urges DOT and FRA to follow GAO's recommendation.

Amtrak Has Not Developed Adequate Cost Cutting Strategies

Amtrak annual operating losses have increased to over $1 billion and are projected to increase. GAO cited in particular Amtrak's lack of unit cost data which prevents Amtrak's ability to identify areas to reduce costs or measure results of cost control efforts. According to GAO, Amtrak needs to expand its use of industry wide cost control practices.

According to the GAO Report Amtrak's operating losses will increase 40% from $1 billion to over $1.4 billion by fiscal year 2009.[22] Which budget items will contribute the most to spikes in Amtrak costs and what can be done to contain them? Given this dire prediction, further testimony from GAO and Amtrak is needed for Congressional oversight. This oversight will ensure Amtrak's loses remain as low as possible, maximizing the taxpayer investment in this key component of the nation's transportation infrastructure. In the meantime the AWG believes steadfast monitoring of Amtrak's finances is paramount and more accurate monthly reports detailing costs must be submitted.

[22] GAO Report at 88

Improvement of Management Accountability

The GAO report identified three main weaknesses in the bonus awards program at Amtrak. First, criteria to evaluate performance were absent. In one case, David Gunn, Amtrak's president at the time, received a substantial cash performance bonus, even though the performance goals in his employment contract were missing.[23] The second weakness in the bonus structure is that key terms needed to implement the processes effectively were not defined. Over $500,000 in performance bonuses were given to Amtrak managers, despite the lack of measurable performance goals.[24] Finally, these awards were given even though the company's financial results had not been finalized.[25] The AWG urges the Committee to closely monitor Amtrak's implementation of executive compensation and accountability in the future particularly concerning the new forthcoming CEO and senior management at Amtrak.

To ensure that Amtrak can better meet the challenge of increasing its efficiency and reducing its operating costs, GAO recommended that the Secretary of Transportation direct the Federal Railroad Administrator take the following four actions:

1) Assess Amtrak's cost structure and the performance of its assets;
2) Establish efficiency and unit cost measures to benchmark Amtrak productivity in order to demonstrate efficient use of Amtrak resources;
3) Develop a cost containment strategy that uses the new cost measures and guides the cost reduction actions across all departments;

[23] GAO Report at 73
[24] GAO Report at 73
[25] GAO Report at 74

4) Make broader use of industry-wide cost containment strategies, including a spend analysis of goods and services procured, benchmarking, outsourcing and efficiency reviews.

These are matters that can be carried out immediately and the AWG urges DOT and FRA to follow GAO's recommendation and likewise urges the Committee to take all necessary action to ensure these GAO recommendations are implemented.

Amtrak's Acquisition Management Needs Reform

Although Amtrak procures $500-$600 million in goods and services per year, it was unable to provide GAO with a detailed comprehensive data on total spending.[26] While labor costs account for nearly 50% of total Amtrak expenditures labor productivity is not tracked. It would be helpful to determine how Amtrak is addressing these issues. Amtrak has no reliable cost information or the ability to track or collect cost information across all departments. This lack of cost information prevents the creation of corporate-wide cost information standards or benchmarks and a company-wide cost containment strategy.[27]

GAO examined 61 Amtrak contracts in detail. Of that number 59% of these were no-bid contracts in violation of Amtrak's own rules.[28] Many of the examined contracts were changed and in some cases these changes were used to turn small jobs into lucrative contracts. For example, a software

[26] GAO Report at 92
[27] GAO Report at 94
[28] GAO Report at 112-114

contract was increased from $60,000 to over $500,000.[29] A contract for the Frequent Rider Loyalty Program was increased from $6 million to over $32 million.[30] Finally, a signal survey services contract went from $45,000 to over $764,000.[31]

GAO's review of 41 of 91 contracts revealed that Amtrak contract dollar amounts had been increased by individuals who did not have the appropriate level of authority to approve such increases. The majority of these changes, 28, occurred in fiscal year 2003 or later. They included 6 extensions by Amtrak's marketing department to Amtrak's frequent rider loyalty program contract which costs increased from "an initial $6 million to over $32 million in payments- an increase of over 500% of the initial contract award."[32] Payment request tools with a $5,000 limit for the purchases of goods were used by the marketing department to procure $109,000 in professional photography services.[33]

The GAO report reviewed Amtrak's procurement of outside legal services "because of the relatively large dollar value of the legal services procured--$48 million during a 2-year period, ending September 30, 2003."[34]

GAO "found several weaknesses in the processes for the procurement and payment of outside legal services that increase the risk that Amtrak is not receiving the best value for these services and is making improper payments for these [legal] services."[35]

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29 GAO Report at 107
30 GAO Report at 155
31 GAO Report at 107
32 GAO Report at 115
33 GAO Report at 116-117
34 GAO Report at 118-119
35 GAO Report at 119

GAO identified several weaknesses in the Amtrak legal department including: 1) a lack of competition in selection of firms; 2) a lack of spend analysis on outside legal services; 3) a lack of documenting terms and conditions of services to be provided; 4) an inconsistent review of invoices for compliance with established billing guidelines; and 5) a lack of segregation of key approval and payment functions.[36]

Amtrak has established Billing Guidelines for Legal Counsel promulgated in 1998. These guidelines anticipate among other things that Amtrak, its auditors, and /or the U.S. Congress would audit the legal fees charged to Amtrak from time to time. GAO did not discuss whether any prior audit of these fees has ever been conducted by the General Counsel's office in Amtrak. Accordingly, the law department conducts no spend analysis as GAO found and therefore has no breakdown of how much it is spending on copying, research, or other line item costs other than cumulative totals of legal fees and expenses.[37]

GAO reported that "Amtrak used 149 outside law firms in fiscal year 2002 and 157 the following year."[38] The law department did not purchase legal case management software until 2005 and that was only after inquiries into the law department operations were initiated by Congressional oversight staff and GAO. The GAO report indicates that "an [Amtrak] official acknowledged that the new system will not capture payment attributes, such as hourly rates, hours expended per matter, professional staff levels, and the time period of services covered."[39]

[36] GAO Report at 119
[37] GAO Report at 120
[38] GAO Report at 120
[39] GAO Report at 121

The AWG notes that Amtrak has spent over $120 million in outside legal fees in the past five years. How much has Amtrak paid in claims? Amtrak's Legal Department has a substantial set of guidelines that are distributed to outside counsel according to GAO. How well are they followed? The guidelines anticipate audits of outside counsel by Amtrak as well as Amtrak's Inspector General, the General Accounting Office, and Congress or its Committees. Specifically, the Guidelines state:

> "Amtrak may, from time to time, in its sole discretion, audit outside counsel bills. Amtrak is itself audited from time to time by the General Accounting Office, the Company's own Inspector General and other external auditors, usually at the request of Congress or a Congressional Committee. By undertaking to provide legal services to Amtrak, outside counsel agrees to cooperate fully with all such audits."[40]

Has Amtrak ever conducted the anticipated audits of its outside counsel? The Amtrak and Department of Transportation Inspector General's offices are currently doing follow up work on aspects of Amtrak's legal affairs pursuant to a request from Chairman Don Young and Congressman John Mica. A report is expected sometime in 2006.

To ensure that Amtrak's acquisition management practices support sound business decisions and the efficient and effective use of federal funds provided to Amtrak, GAO recommended that the Secretary of Transportation direct the Federal Railroad Administrator take the following three actions:

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[40] Amtrak Billing Guidelines at 4

1) Increase oversight of acquisition practices at Amtrak by requiring Amtrak to submit an acquisition management plan to FRA;
2) Review and provide Amtrak with feedback and direction as necessary on Amtrak's acquisition management plan; and
3) Monitor Amtrak's performance under the plan and have FRA report at least annually to Congress on Amtrak's progress implementing the acquisition management plan.[41]

These are matters that can be carried out immediately and the AWG urges DOT and FRA to follow GAO's recommendation and likewise urges the Committee to take all necessary action to ensure these recommendations are implemented.

More Oversight of Amtrak is Needed.

Developing transparency, accountability, and oversight is critical for achieving operational success at Amtrak according to the GAO Report. Since Amtrak is neither a publicly traded private corporation nor a public entity, it is not subject to many of the mechanisms that provide accountability for results.

Amtrak is not subject to SEC rules and regulations or SEC financial disclosure requirements such as10-K and 8-K reports, which are designed to provide information to the public and investors about a company's financial condition. In publicly traded companies, these reports serve as a form of oversight and accountability concerning financial condition and business practices. By the same

[41] GAO Report at 126-127

token, Amtrak is not covered by the federal CFO Act, GPRA, FMFIA or other public accounting standards.

Amtrak does make some information available to Congress, although the GAO found that it was not always provided in a timely manner. Each year Amtrak is required to submit to Congress an annual operations report that identifies such things as ridership, revenues, and federal subsidies for each of its intercity routes. Amtrak also is required to annually submit to Congress a general and legislative report that discusses its operations and activities including a statement of revenues and expenditures for the prior fiscal year. GAO found that "this report has been significantly late - repeatedly months after close of the fiscal year and the due date of the report to Congress."[42]

Oversight mechanisms that do apply to Amtrak, such as management by the board of directors and reviews by the Federal Railroad Administration, are limited or have not been implemented effectively according to the GAO. Amtrak operates as neither a public entity nor a publicly traded private organization. GAO indicated that this hybrid nature has been a key deficiency in holding Amtrak accountable.[43]

The AWG endorses GAO's conclusion that all stakeholders at Amtrak, its board of directors as well as its management, along with its federal overseers in DOT and Congress need to be more diligent in their oversight of Amtrak. FRA can and should take a more proactive role in managing the Amtrak grant.

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[42] GAO Report at 132
[43] Ibid

Accordingly, the AWG urges the Committee to continue what it has begun in its fundamental recognition of the need for sustained and constant oversight to aid Amtrak as it addresses each of the GAO recommendations. There are no quick fixes but the GAO Report, along with the Amtrak IG Reports, are valuable guideposts in the near term for Congressional oversight.

The AWG recommends that the GAO conduct a comprehensive review of private and public accountability standards and report to the Committee by June 30, 2006, which standards could best apply to Amtrak. We recommend that the Committee use the information from GAO to craft legislation that requires Amtrak to prepare monthly, quarterly and annual financial statements, compliant with Generally Accepted Accounting Principles, which the chief executive officer and the board of directors must certify as to their accuracy and which must be filed with a public agency. Amtrak should be subject to regular accounting scrutiny by an independent auditor with federal enforcement powers, either via the Securities Exchange Commission or an empowered regulator with such specific authority.

The AWG also recommends that separate budget authority be granted by Congress for the Amtrak IG. This is one operating procedure that should be imposed on Amtrak's annual grant. The IG can no longer be placed in the position of competing for Amtrak operation dollars when he is overseeing and investigating Amtrak management.

Amtrak Working Group Review Regarding the Amtrak Inspector General's September 2005 Report. Amtrak Mechanical and Maintenance Operations are not in a "State of Good Repair."

The Amtrak Office of Inspector General issued its report entitled "Amtrak Mechanical Maintenance Operations Evaluation Report E-05" in September 2005 ("the Amtrak IG Mechanical Report"). The Amtrak IG briefed the Committee Oversight staff on his report in December and January 2006. The Amtrak Office of Inspector General along with 2 consultants, GF Rail and TEMS Transportation Consulting, conducted a one year review of Amtrak's mechanical maintenance operation. The IG Report makes 34 recommendations to effectiveness and efficiency of Amtrak mechanical maintenance operations.

The AWG recommends the Committee examine the Amtrak IG's 34 recommendations, the highlights of which are discussed below. It would be appropriate to also receive a briefing from Amtrak's maintenance department. While many items identified by the Amtrak IG may be implemented by a proactive Amtrak board and senior management, others will require Congressional action.

Amtrak's mechanical fleet has 350 locomotives and 1800 cars. Its Mechanical Department has 4,000 employees and 280 managers. In FY04 Amtrak spent over $500 million for inspection, maintenance, repair, cleaning, and overhaul of its mechanical fleet.

Amtrak current maintenance is primarily preventive maintenance inspection and service, conducted mostly on time-based intervals. Both consultants independently commented that Amtrak's maintenance operations are outdated by more than 20 years. Both consultants recommended and the IG concurred that Amtrak should adopt the industry's "Reliability Centered Maintenance" (RCM) methodology.

The Amtrak IG Mechanical Report found that Amtrak could save from $11 to $21 million more per year alone on its diesel locomotive maintenance.[44] In addition, diesel locomotive maintenance costs represent only 15% of the overall mechanical maintenance budget**.** The IG Report states **"If similar savings could be achieved with electric locomotive maintenance and car maintenance, the overall savings could potentially exceed $100 million per year**."[45] [bold in original].

Amtrak has 12 major maintenance fleet facilities located in L.A., Oakland, Seattle, New Orleans, Chicago, N.Y., Albany, Philadelphia, Boston, Washington, D.C., Hialeah, Fla., and Sanford, Fla. In addition, Amtrak gas 3 heavy overhaul shops in Bear, Del; Wilmington, Del; and Beech Grove, Ind.

The primary maintenance activities are categorized as Reactive (unscheduled); Preventive (scheduled, time-based or interval; cleaning); Predictive; and Proactive maintenance.

The Amtrak IG Mechanical Report found irregular funding had a negative impact on maintenance operations in the form of a breakdown of the Preventive Maintenance (PM) cycle. PM was reduced by budget shortfalls that lead in turn to more reactive maintenance. The results of FY00 and FY01 cut backs are reflected in reduced PM. "Without reliable funding, it will be very difficult, if not

[44] Amtrak Office of Inspector general Evaluation Report: *Amtrak Mechanical Maintenance Operations,* Report E-05-04 (Washington, DC: June 2005) at 8
[45] Amtrak IG Report at 8

impossible, for the Mechanical Department to develop and sustain the systems and processes needed to optimize their maintenance operations."[46]

> "Amtrak's current maintenance operation consists mainly of PM inspections and services conducted at mostly time-based intervals, augmented by a high number of reactionary, unscheduled, repair actions. Both of our consultants independently commented that Amtrak maintenance operations are being performed similar to the way the other railroads in North America did over 20 years ago."[47]

Other Class I railroads have since moved on to more sophisticated approaches to improve reliability and reduce costs" such as to RCM method mentioned above. That approach uses an appropriate mix of maintenance actions to improve equipment reliability based on the characteristics of the potential failures and the cost effectiveness of the maintenance itself. The goal is to provide a highest level of required equipment performance at the lowest cost.[48]

The IG has concluded that Amtrak could benefit greatly from adopting a RCM philosophy similar to other major railroads. However, the IG recognizes the full benefit to adopting the RCM program will take several years to implement.

The Amtrak IG Mechanical Report makes findings and recommendations discussing specific actions Amtrak should take to transition to a RCM operation. The report examined Amtrak's diesel locomotive fleet built by General Electric similar to those run by the freight railroads.

[46] Amtrak IG Report at 5
[47] Amtrak IG Report at 5
[48] Amtrak IG Report at 8

> "Overall, our analysis shows that Amtrak is spending between $6million and $16 million more per year (20% to 53% more) than a typical freight railroad would to maintain its diesel locomotive fleet and that Amtrak could save an additional $5 million by changing the overhaul frequency to the mileage recommended by the manufacturer."[49]

The Amtrak IG Mechanical Report found, among other things, that maintenance is not being scheduled and performed properly; the heavy overhaul program is inefficient and wasteful; the Work Management System is in substantial noncompliance; and the Mechanical Department has virtually no quality management system.

The Amtrak IG Mechanical Report states, similar to the GAO Report, that Amtrak has no metrics to monitor and measure performance:

> "Part of the problem is that the term 'State of Good Repair' … has not been defined. Without a definition of what they [Amtrak] are trying to achieve, it is difficult for the Mechanical Department to measure how well they are doing… Without useful fleet performance metrics, Amtrak's leadership is 'flying blind.' Decisions are being made with no ability to determine if changes are helping or hurting performance. Hundreds of millions of dollars are being spent to achieve a 'State of Good Repair' without a firm definition of what that means and no way to tell when that has been achieved."[50]

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[49] Amtrak IG Report at 8
[50] Amtrak IG Report at 26

Amtrak's maintenance expenditures are not based on prioritized corporate needs. Current material storage and issuing procedures at maintenance facilities are inefficient and have low worker productivity. "Amtrak's plan for mechanical capital expenditures is to bring the entire fleet up to a "State of Good Repair" regardless of whether or not [repairs to] the cars or locomotives are needed."[51]

Amtrak does not maintain cost data that allows Amtrak to determine maintenance costs by activity or type of equipment. Cost data is inaccurate, misleading, non-transparent, and inefficient leading to procurement waste, fraud and abuse.

> "[W]e found obviously miscoded data that should not have been included…we encountered large amounts of manual manipulation of the cost data… we encountered a large number of negative entries, reflecting attempts to back charges out of certain accounts and apparently move them to other accounts. We had a difficult time finding anyone who knew why this was done… This large amount of manipulation creates the opportunities for mistakes and further miscoding of costs. In addition, it makes it very difficult to trace the costs back to the original purchase or issue and therefore makes the integrity of the data more questionable."[52]

The IG Report echoes the findings by GAO concerning Amtrak's inability to contain its costs because it has no data to analyze Amtrak's spending.

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[51] Amtrak IG Report at 26
[52] Amtrak IG Report at 35-36

Recent Update By Amtrak IG on Amtrak's Mechanical Program

The Amtrak IG has briefed Committee staff since receiving the report. The Chairman of Amtrak's board requested that the IG remain engaged in this area and help facilitate implementation of the recommendations. To accomplish this, the Amtrak IG has engaged several consultants to help implement the most important recommendations. The current status of these efforts is outlined below:

Facility Rationalization/Consolidation: A team of consultants, accompanied by Amtrak IG staff, visited all 14 of Amtrak's major maintenance facilities in December and January. The consultants are currently analyzing the data they accumulated and will be reporting in March on their recommendations. We anticipate their study will demonstrate significant efficiencies can be gained by consolidating work into fewer facilities.

Improved Fleet Planning: A third group of consultants were engaged to help Amtrak develop an improved fleet planning process. They have completed their information-gathering phase and are in the process of validating their conclusions. Their report will be issued in March and Amtrak should be able to make some improvements almost immediately.

Adopting Reliability Centered Maintenance (RCM): A fourth group of consultants have been engaged to help Amtrak adopt improved maintenance practices. These consultants helped the U.S. Navy and the U.S. Coast Guard adopt Reliability Centered Maintenance, resulting in significant improvements in equipment reliability, while at the same time significantly reducing maintenance costs. The consultants are currently analyzing the maintenance history of the Acela high-speed train sets with the intent to begin implementation of new practices in this area first. Fully implementing RCM throughout Amtrak will be a multi-year effort.

Amtrak IG Mechanical Report: Questions for Committee Consideration:

From the Amtrak IG Mechanical Report it is clear that Amtrak is performing mainly time based Performance Maintenance repairs at frequencies not supported by detailed failure or cost analyses. What benefits would accrue to Amtrak by moving to a Reliability Centered Maintenance approach?

Maintenance is not done consistently to a uniform standard according to the IG report. How can Amtrak management implement a more consistent quality assurance program?

The Amtrak IG's Mechanical Report indicates that maintenance facility layout and conditions do not support high productivity. The AWG urges the Committee to work with Amtrak to examine whether consolidation of facilities is a desirable goal to reduce costs and improve efficiencies at Amtrak.

It does not appear From the Amtrak IG's Mechanical Report that Amtrak prioritizes its maintenance expenditures based on fleet performance or fleet requirements. The AWG believes the Committee needs to further examine what "best practices" Amtrak can adopt to improve maintenance performance. For instance, should there be some type of FAA record maintenance procedures implemented upon Amtrak?

Since the issuance of the Amtrak IG's maintenance report, Amtrak management has taken positive steps to implement many of the IG's findings and recommendations. The AWG recommends the Committee follow up with the Amtrak IG concerning the ongoing work and forthcoming reports on Amtrak's mechanical maintenance program.

After a review of the Amtrak IG Mechanical Report and a briefing by the Amtrak IG concerning the way Amtrak currently performs maintenance, the AWG recommends that the Committee ask Amtrak management to provide a formal plan concerning the Amtrak IG's recommendations and that Amtrak consider implementation of these major overhauls in its maintenance operations.

Amtrak Working Group Review of the Amtrak Inspector General's June 2005 Report on Amtrak Food and Beverage Operations and other matters.

The Amtrak Inspector General issued a report entitled "Amtrak Food & Beverage Operations-Evaluation of FY '03 Performance." The report examines Amtrak's performance on a system, route, and service type level. The report also compares Amtrak's performance with that of the U.S. restaurant industry. Lastly, the report identifies opportunities to improve performance.

In summary, the Amtrak IG found that:

1) The financial performance of Amtrak's food and beverage operation is significantly worse than average compared the U.S. restaurant industry;

2) That all of the varying types of food and beverage operation on all Amtrak routes lose money; and

3) Amtrak's food and beverage operations in FY '03 generated approximately $78 million in revenue but had $162 million in expenses-resulting in a loss of over $83 million.

Separately, the GAO conducted its own review of Amtrak's food and beverage operation and found similar results. In its June 2005 food and beverage report. GAO found that "Amtrak's financial records show that for every dollar Amtrak earns in food and beverage revenue, it spends about 2 dollars, a pattern that has held consistent for all three years GAO reviewed."[53]

These findings are consistent with Amtrak's Inspector General's figures of $78 million in revenue and $162 million in expenses, roughly a little more than $2 in expenses for every $1 in revenues. In GAO's estimation, Amtrak has lost a total of almost $245 million between fiscal year 2002 and fiscal year 2004 on food and beverage operations.

Information that could provide both internal and external accountability for the food and beverage function (and other areas) is limited. Amtrak does not include any information about its food and beverage expenses in any of its internal or external reports, including its monthly performance reports, its internal quarterly progress reports or its annual consolidated financial statements.

This lack of information makes it difficult for internal and external stakeholders to gauge the profit or loss of the operation as well as to assign accountability. This lack of transparency is typical of many aspects of Amtrak's operations. Amtrak has revised its contract with its outside vendor and the AWG urges the Committee to monitor the forthcoming bid and award of new food and beverage contracts.

In the last few months Amtrak has taken steps to renegotiate its primary food and beverage contract as well as pursue alternate methods of meeting passenger culinary needs. The AWG urges Amtrak and the Amtrak IG to closely monitor such efforts to determine their effectiveness and impact on the traveling public.

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[53] GAO, *Amtrak-Management and Accountability Issues Contribute to Unprofitably of Food and Beverage Service*, GAO-05-761T (Washington, DC: June, 2005) at 1.

Amtrak Working Group Note Concerning Legislation Enacted by the Congress Last Year Affecting Amtrak's Food and Beverage Operations

The Amtrak IG testified before the Subcommittee on Railroads just nine months ago on June 9, 2005 outlining his findings concerning Amtrak's food and beverage services. The IG stated that "the management of these operations are critical to the overall success of Amtrak…[as] food and beverage operations represent almost $200 million in annual expenses to the corporation."[54].

Key findings by the IG included "that Amtrak food service employees are paid 31/2 times the amount paid to the equivalent U.S. restaurant employee…[being] compensated more than $54,000 [annually], while comparably skilled food service workers are compensated $14,450 to $15,835."55

Notwithstanding these pay rates, the IG stated his review of Amtrak's food and beverage operations was prompted, in part, by "a number of investigations of food and beverage workers…[including] an eighteen month period alone, [wherein] 135 employees were dismissed, resigned, or were disqualified for improper cash handling."56

The IG stated that relatively recently Amtrak corrected a major flaw in its on-train cash handling system. A couple years ago Mr. Gunn implemented a reform in which he directed managers to replaced the "cardboard boxes" used to handle food and beverage cash on the trains with cash

[54] Statement of Fred Weiderhold, Jr., Inspector General, Amtrak, before the Subcommittee on Railroads, Committee on Transportation & Infrastructure, U.S. House of Representatives (June 9, 2005) at 1.
[55] Ibid at 5
[56] Ibid at 1

registers and receipts, a move which the IG has indicated has been "partly successful, but weak controls remain."57

Two other key Amtrak IG findings in this respect were 1) "Amtrak pays about 21/2 times the amount paid by comparable U.S. restaurants to supply food and beverage to its operations;" and 2) Amtrak pays about twice as much, on average, for non-consumable stock [such as linens, napkins, china and utensils] as a comparable U.S. restaurant."58

Accountability is low and compensation is high in the food and beverage sector of the Amtrak operation. However, Amtrak lawyers and business managers who fail to draft, scrutinize, and manage corporate contracts cost the corporation even more than frontline on-train employees who help themselves to the contents of the cash register.

Amtrak's response to the concerns expressed about the mismanagement of its food and beverage service is often too little, too late. Many of the actions being taken by Amtrak over the past year or so are the result of the scrutiny it has received. Prior to the Committee initiating oversight of Amtrak's food and beverage contract, the corporation did not adequately assert its rights under the prior contract and no one was held accountable. Amtrak should not be applauded for merely performing tasks which it had previously neglected.

In response to the Rail Subcommittee's June 2005 hearing on the Amtrak IG and GAO reports concerning the losses incurred by Amtrak's food and beverage operations, Congress enacted the following language in H.R. 3058, the Transportation Appropriations Act of 2006:

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[57] Ibid
[58] Ibid at 6

> *Provided further,* That the Corporation [Amtrak] is directed to achieve savings through operating efficiencies including, but not limited to, modifications to food and beverage service and first class service: *Provided further,* That the Inspector General of the Department of Transportation shall report to the House and Senate Committees on Appropriations beginning on January 3, 2006 and quarterly thereafter with estimates of the savings accrued as a result of all operational reforms instituted by the National Railroad Passenger Corporation: *Provided further,* That if the Inspector General cannot certify that the Corporation has achieved operational savings by July 1, 2006, none of the funds in this Act may be used after July 1, 2006, to subsidize the net losses of food and beverage service and sleeper car service on any Amtrak route…

The AWG urges the Committee to remind the DOT IG of its reporting obligations on this matter and to have DOT's FRA and Amtrak prepare contingency plans for reduced food and beverage service.

Minority Views

The views contained in the above report are representative of the majority of the Amtrak Working Group. The minority have chosen to write and distributed separate views.

Appendix I: Letter from Chairman Don Young to Congressman Richard Baker

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Don Young
Chairman

Lloyd A. Jones, Chief of Staff
Elizabeth Megginson, Chief Counsel

James L. Oberstar
Ranking Democratic Member

David Heymsfeld, Democrat Chief of Staff

October 25, 2005

Congressman Richard Baker
341 Cannon House Office Building
Washington DC 20515

Dear Congressman Richard Baker,

Over the last two years the Government Accountability Office (GAO) has been working at my request on an evaluation of Amtrak's management and performance. The report was structured to provide comprehensive and detailed information concerning the current state of intercity passenger rail transportation under Amtrak's stewardship. As we assess the current federal role and look to the future opportunities to meet intercity passenger rail transportation needs, it is imperative that any system we adopt or continue to support operates in an efficient and businesslike manner.

The GAO report has raised serious questions about the planning, acquisition procedures, cost controls, and financial management at Amtrak. Because of your expertise in these areas and the work you have done for the Congress in reviewing the financial and management practices of major sectors of the business community I would like you to head up a working group to evaluate the information that has been and is being developed by the GAO, the Amtrak IG, and the DOT IG. The focus of the effort is Amtrak's management practices, how it acquires its goods and services, and the accuracy of the information provided to the Congress and the public.

In light of the heavy federal subsidy used to keep Amtrak solvent, I am specifically interested in allegations of wasteful spending, poor business practices, inadequate record keeping, and the lack of a comprehensive strategic plan.

I would like you to report back to the Committee by February 17, 2006 and recommend whether there is sufficient information to warrant the establishment of a special Committee taskforce with the authority to conduct hearings or whether no further action should be taken.

Sincerely,

DON YOUNG
Chairman

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Appendix II: GAO CHRONOLOGY OF INFORMATION REQUESTS

REQUEST	DATE
Request letter from House Transportation and Infrastructure Committee	Dec. 19, 2003
Notification letter to Amtrak and Department of Transportation about new engagement	April 7, 2004
Entrance Conference with Amtrak	April 29, 2004
Written request for information (original)	May 14, 2004
During this time GAO began receiving some information and GAO followed-up about the status of requests by phone, e-mail, and voicemail.	May-September 2004
Second written request for information[59]	October 22, 2004
At Amtrak's request, weekly follow-up discussions began between Amtrak and GAO about information previously requested and follow-up items.[60]	October 2004-March 2005
Meeting with David Gunn, Amtrak President and CEO RE: Delayed receipt of information requested	December 10, 2004
GAO letter to David Gunn RE: Final request that Amtrak provide information requested (response date: Feb. 25, 2005)	February 14, 2005
Final written update of information requested	March 7, 2005
Final date for information requested	March 14, 2005
Information in previous requests received (or otherwise disposed of)	March 14, 2005
Amtrak Report Issued	October 2005

[59]The list included items requested between May and September 2004 as well as follow-up items.
[60]In general, written updates were provided weekly to Amtrak (government affairs office) by GAO.

Appendix III: The GAO Report Executive Summary

Why GAO Did This Study: Amtrak has struggled since its inception to earn sufficient revenues and operate efficiently. In June 2002, Amtrak's new president began major efforts to improve efficiency. However, the financial condition of the company remains precarious, requiring a federal subsidy of more than $1 billion annually. Capital back logs are now about $6 billion, with over 60 percent being attributable to its mainstay Northeast Corridor service. GAO reviewed Amtrak's (1) strategic planning, (2) financial reporting and financial management practices, (3) cost containment strategies, (4) acquisition management, and (5) accountability and oversight.

What GAO Found: Amtrak's basic business systems need to be strengthened to help achieve financial stability and meet future operating challenges. Recently, Amtrak's management has taken positive steps to instill some discipline and control in operations. However, fundamental improvements beyond these efforts are needed to better measure and monitor performance, develop and maintain financial controls, control costs, acquire goods and services, and be held accountable for results. Several key themes emerged across all five areas GAO reviewed. Amtrak lacks a meaningful strategic plan that provides a clear mission and measurable corporate wide goals, strategies, and outcomes to guide the organization. Also absent is a comprehensive strategic planning process, characteristic of leading organizations GAO has studied. Also, while Amtrak has recently taken steps to improve its acquisition function, GAO found that some major departments independently made large purchases and did not always adhere to Amtrak's procurement policies and procedures. Amtrak lacks adequate data on what is spends on goods and services, preventing it from identifying opportunities to leverage buying power and potentially reduce costs. Similarly, while Amtrak has recently reduced costs, revenues are declining faster than costs, leading to operating losses exceeding $1 billion annually. These losses are projected to grow by 40 percent within 4 years; no effective corporate wide cost containment strategy exists to address them. Financial reporting and financial management practices are weak in several areas. Financial information and cost data for key operations, while improved, remain limited and often unreliable. For example Amtrak's on-board food and beverage service lost over $160 million for fiscal years 2002 and 2003. Amtrak's poor management and enforcement of its food and beverage contract (an outside contractor is responsible for procuring and distributing food for most of Amtrak's trains) may have contributed to this loss. Regarding financial reporting, GAO found that Amtrak may have omitted or misallocated key expenses in several areas, substantially understating operating expenses in reports that managers use to assess performance. Similarly, Amtrak has no developed sufficient cost information to target potential areas to cut costs, accurately measure performance, and demonstrate efficiency. Developing transparency, accountability, and oversight is critical for achieving operational success. Since Amtrak is neither a publicly traded private corporation nor a public entity, it is not subject to many of the mechanisms that provide accountability for results. Mechanisms that do apply, such as oversight by the board of directors and the Federal Railroad Administration, are limited or have not been implemented effectively. Current congressional review of Amtrak offers an opportunity for addressing these transparency and accountability issues.

What GAO recommends: GAO makes recommendations in all five areas reviewed. These are designated to improve the strategic planning process; improve financial information; strengthen controls over cost and acquisition of goods and services; and strengthen transparency, accountability, and oversight. GAO also suggests that Congress insure that future legislation for intercity passenger rail service contains clear goals and stakeholder roles, and incentives for results and accountability. Department of Transportation officials, in general, agreed for the report's findings. Amtrak's president was not convinced GAO's recommendations would achieve the results GAO expects but, in general, did not comment on specific recommendations.

Appendix IV: Amtrak Recommendations for Executive Action

NATIONAL RAILROAD PASSENGER CORPORATION
60 Massachusetts Avenue, NE, Washington, DC 20002
tel 202 906.3960 fax 202 906.2850

AMTRAK

David J. Hughes
Acting President and Chief Executive Officer

March 17, 2006

Honorable Richard Baker
Chairman
Amtrak Working Group
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

Dear Representative Baker:

Enclosed is the final version of the draft document that my staff provided at the beginning in December of last year. While the overall format of the document may have changed to comply with specific requests from the Federal Railroad Administration (FRA) in accordance with terms negotiated under our grant agreement, the content and the sentiments expressed therein have not.

As I stated in our initial meeting, Amtrak agrees with many of the recommendations set forth in the report and, as you will find in the enclosed document, have either implemented many of the recommendations or are well into the process of doing so. Our progress is being tracked by our Board of Directors and the FRA as we update them on a regular basis via the enclosed matrix or other forms of written communication.

Over the past three years, the management team at Amtrak has made considerable progress toward changing the way that the company does business. We have brought costs under control, eliminated or significantly reduced our material weaknesses and reportable conditions, restored order to our procurement processes, and implemented several performance-based reforms. However, we have more work to do, and my staff and I are just getting started.

I look forward to working with you, the Working Group, and the Transportation & Infrastructure Committee in the coming months.

Sincerely,

David J. Hughes
President and Chief Executive Officer

Enclosure

Amtrak Recommendations for Executive Action – Enclosure

GAO Recommendation General/Specific	Amtrak Response & Comment	Schedule d Start Date	Status	Expected Completio n Date	Resonsibility Primary	Responsibilit y Secondary	Key Dependencies	Procedures to Ensure Successful Implementation
Strategic Planning (General)								
To build on the strategic planning efforts already under way at Amtrak, we recommend that Amtrak's president take the following four steps to create a strategic planning and performance-based management approach.								
• Prepare a *comprehensive strategic plan* with a clearly defined mission, organizational goals and objectives that encompass all of Amtrak's activities, and strategies or action plans to achieve those goals.	*A central mandate for the newly created Planning & Analysis department is the development of such a plan. While Amtrak is committed to development of a "mission" statement that will drive goals and objectives, strategies, action plans, etc. it is important to recognize Amtrak's unique policy environment in which there is little consensus regarding basic principles and goals for intercity passenger rail (evidenced by the lack of an authorization since 2002).*	10/1/2005	Underway; major topic of January Amtrak Board meeting	TBD	Amtrak Board (Mission Statement) and Planning and Analysis Dept. (Strategic Plan)	Other Amtrak departments	Board decision on mission statement; filling key positions in Planning and Analysis Dept	Creation of Planning and Analysis Dept with responsibility for developing a strategic plan; regular status reports to Amtrak Board
• Establish *annual performance goals* that tie to the mission and corporate goals.	*This is a key tenet of the strategic plan; Amtrak will be developing goals at the corporate level and line of business.*	10/1/2005	Initiated	TBD	Planning and Analysis Depts. (coordinatin g establishme nt of corporate goals)	Other Amtrak departments	Definition of corporate goals/objectives through development of strategic plan	Regular status reports

• Develop an incentive-based performance management system that ensures responsibility for goals is clearly articulated at all levels of the organization.	*This is a top priority. Amtrak Board was provided a briefing on a proposed incentive plan at the December Board meeting. No action was taken at that time.*	12/5/2005	In-process	TDB	Human Resources	N/A	Needs Board Approval	Detailed implementation plan under development.
• Assess and develop the data systems and processes necessary to monitor, evaluate and report – both internally and externally – on progress toward Amtrak's mission and strategic and annual performance goals.	*Development of better and more transparent cost information is the underpinning of virtually all of the initiatives in Amtrak's April 2005 Strategic Reform Initiatives ("SRI") Amtrak is developing a phased approach to improve data systems, and evaluation and reporting processes that will include early benchmarking and performance measurement and regular tracking of progress toward achieving goals.*	10/1/2005	Incentive component of plan complete. Additional information to be provided to Board on the performance criteria for the variable pay component of the plan.	TBD	Board	Human Resources	Board approval of compensation plan.	

Financial Reporting - (General) To ensure that Amtrak financial reporting and financial management practices support sound business decisions and the efficient and effective use of federal funds provided, we recommend that the Secretary of Transportation direct the Federal Railroad Administrator to take the following three actions: · Require Amtrak to submit a plan, which includes specific actions to be taken, anticipated outcomes (consistent with the recommendations outlined below), and completion dates, to improve its financial reporting and financial management practices; · Review and provide Amtrak with feedback and direction, as necessary, on this plan to ensure that the most effective approach(s) to improving financial reporting and financial management practices are implemented; and · Monitor Amtrak's performance under the plan and report, at least annually, to Congress on progress begin made by Amtrak regarding improvements of its financial reporting and financial management practices – this report should identify any specific actions either Amtrak or Congress should take to facilitate such improvements.	*The GAO recommends additional oversight by the FRA of Amtrak's financial reporting. Amtrak under the direction of the FRA has provided all reporting required by public law which includes preparation of a business plan by routes, and lines of business, and reporting against this plan each month. Since 2003 Amtrak has prepared the FRA defined monthly reports that the FRA uses to monitor Amtrak's performance. It provides daily reports of cash balances to the FRA. The FRA has had the power to withhold funds if it does not determine that this reporting is sufficient. Further, an extensive Monthly Report has been prepared which is provided to the Amtrak Board of Directors, the FRA, the DOT – IG, Congressional Committees and is posted monthly on the Amtrak internet site. This report includes a section (A-6) at the specific request of the FRA. Also, the information in Section G is incorporated in the capital grant.*	No action required by Amtrak						

To improve Amtrak's efforts in addressing financial management challenges and better support management decision making, we recommend that the president of Amtrak take the following eight actions discussed in table 4:								
Table 4 (Page 85): – Financial								
Reporting and Financial Management								
Practices (Specific)								
Improve usefulness of financial								
reporting								
_								
Issue Include relevant information in monthly performance reports.								
Add the following information to monthly performance reports:								
· Food and beverage services: separate revenue and expense information, gross profit analysis, information on the cost of meals, and other metrics basic to a food service operation.	*The Monthly Performance Report (MPR) is a summary level document and is not the appropriate place for such reporting and is not the appropriate venue for such data. Amtrak would propose an alternate quarterly report on food and beverage with the assistance of Amtrak's Inspector General and the appropriate department.*	5-Dec	In process	Ongoing	Finance	Customer Services		Review by DOT-IG and FRA
· Employee benefits: cost trends, changes in the components of benefit costs, and initiatives to manage these costs.	*Benefit data is already provided in the Income Statement as well as page D-4 of the MPR. Detailed information can be provided when requested.*	Complete						

· Each line of business: components of key expense line items and functional activities (such as salaries and benefits), trends in key expense components, differences in actual versus budgeted results, and appropriate performance metrics (such as revenue per passenger mile and expense per passenger mile).	*Detailed Line of Business Income Statements are already provided in the MPR (pages A-3.1 through A-3.6) as well as in the Overview Report provided to the Board monthly.*	Complete						
· Each train route in the route performance information (RPI): comparative expense and net profitability or loss, amounts for depreciation expense, and amounts for other components of expenses (such as salaries and benefits).	*The first step of this has already been completed and included developing a system to translate the budget/forecast into route level data. Amtrak anticipates rolling out the report in FY06.*	6-Jun	Planning & Assess-ment	6-Mar	In process	Ongoing	Finance	Review by Board, CEO and VP Operations
Increase reliability of information in monthly performance reports								
Perform a comprehensive risk assessment of financial reporting processes that support preparation of monthly performance reports and the RPI, to include determining areas of vulnerability, implementing appropriate compensating and mitigating internal controls, and ongoing monitoring to ensure compliance.	*No position*	2005	Complete		Amtrak IG			
Make allocation policies and procedures more transparent								
Document policies and procedures related to controlling the information in the monthly performance reports, including the RPI. The policies and procedures should cover how expenses are allocated to Amtrak's routes, as well as specific guidance on documenting the justification and authorization of changes	*Some procedures were in place prior to GAO study, and we believe that additional improvement can be made.*	5-Dec	In process	2006	Finance	FRA	Volpe Center project on Avoidable and Fully allocated costs	Development of plan in 90 days from signing Grant request

made to allocation methods.								
Ensure benefit costs are complete and can be recovered in billings to outside parties								
Allocate accrued postretirement health benefit expenses among Amtrak's lines of business and reflect accrued costs in billings for employee benefits under reimbursable agreements with outside entities. Adjust standard benefit expenses rate on a timely basis.	*This has already been implemented. Beginning in October 2005, Amtrak's employee benefit rates have been modified to include the accrued postretirement health benefit expense. Accordingly, billings under reimbursable agreements reflect the new benefit rates.*	N/A	Complete	N/A	N/A	N/A	N/A	N/A
Make compensation decisions more transparent	Approval for a revamped compensation program will be sought from the Board of Directors.	Dec-05	In process	TBD	Human Resources	N/A	Compensation program recommendations need Board Approval	Detailed implementation plan under development
Modify existing controls:								
· Clearly define all significant terms used in Supplemental Executive Retirement Plan (SERP) determinations (such terms include management committee member, senior staff employee, compensation, financial targets, and performance goals) so that they can be consistently applied throughout the process.	*Amtrak will update plan document to define such terms.*	5-Dec	In process	TBD	Human Resources	N/A	Plan updates need Board Approval	N/A

• Reconsider the timing of management proposals for SERP awards to ensure that decisions are based on information from audited financial statements.	*Amtrak will reconsider the timing of SERP awards.*	5-Dec	In process	TBD	Human Resources	N/A	Needs Board approval	N/A
Develop internal control enhancements								
Develop a comprehensive action plan for immediately implementing preventive controls to enhance the reliability of financial data and address the reportable condition over accounting for capital assets in the most recent reports and letters of comment from the independent public accountant.	*We agree that the implementation of more preventive controls to go along with our existing detect controls is advisable. Currently the lack of an integrated financial system makes this problematic, but Amtrak has taken steps to address this situation in both its long-term and short-term planning. Short-term, Amtrak management has developed and implemented back-end controls that mitigate the accounting issues referenced above. Long-term, Amtrak has been taking steps since April 2004 toward the goal of implementing an integrated financial system. Recently, Amtrak has developed, with an outside consultant, a comprehensive plan (Summary Attached) to implement an Integrated Financial System beginning in Fiscal Year 2006.*	6-Jun	Planning & Assess-ment	Dec-08	Patrick Leininger, Controller	Ronnie Patriotis	Numerous but will be articulated in future SOW and Project Plan	Project Management process
Seek assistance in strengthening procedures								
Engage an independent public accountant to provide								

• Special services as necessary to provide assurance over compliance with federal regulations concerning overhead rates developed and applied to recover indirect costs associated with work performed for outside parties and	*Amtrak currently prepares its overhead rates in accordance with applicable Code of Federal Regulations guidelines. Amtrak is subject to audit by its own Office of Inspector General with regard to the overhead additives applied to Federal Capital Grants. Amtrak is also subject to audit by various State Departments of Transportation, regarding overhead provisions contained in each reimbursable agreement. Many of these agreements reference the CFR as the framework for overhead development and allocation. Amtrak's current independent Public Accountant also performs procedures relating to the applicability of expenses contained in the overhead pool and the method by which these expenses are allocated to Amtrak's capital projects. We do not believe this recommendation will make any meaningful contribution at this time.*	N/A	Complete	N/A	N/A	N/A	N/A	N/A
• Review-level attestation work on Amtrak's quarterly financial statements.	*The results of Amtrak's independent audit for fiscal year 2004 were exceptional with audit adjustments being virtually non-existent on both a GAAP and GAGAS basis. Our fiscal year 2005 audit is in process, however, we expect similar results. Amtrak management would prefer to focus our limited resources on other critical areas identified in this report.*	Feb-06	In Process	Feb-06	Patrick Leininger, Controller	Frank Knapp	Completion of FY05 Audit	Review and react to audit findings
Enhance accountability and transparency								

Continue to have annual audits of its financial statements performed under *U.S. generally accepted government auditing standards (GAGAS)* and, effective beginning with its fiscal year 2004 financial statement audit, make publicly available the auditor reports prepared under GAGAS reporting standards for financial audits, including those on internal control and compliance with laws, regulations, and provisions of contracts and grants.	*We agree and will continue to have annual audits of our financial statements performed under GAGAS. Furthermore, as in the past, we will make the 2004 report as well as future reports publicly available.*	Mar-06	N/A	Mar-06	Patrick Leininger, Controller	David Smith, CFO	Board Meeting schedule & completion of FY 05 audit	Normal process of working with the auditors to complete the task ASAP.
<u>Cost Control Strategy - (General)</u>								
To ensure that Amtrak can better meet the challenge of increasing its efficiency and reducing its operating costs, we recommend that the president of Amtrak take the following four actions:								
• Comprehensively assess Amtrak's cost structure and the performance of its assets;	*Efforts are underway to assess cost structure and improve utilization of Amtrak fleet and infrastructure assets, including tracking of performance against key measures such as fleet reliability and availability.*	10/1/2005	Underway	TBD	Operations, Planning and Analysis and Finance Depts.	Other Amtrak departments (e.g., Mechanical and Engineering)	Adequate information and staffing resources	Monitoring and reporting procedures to be defined
• Establish efficiency and unit cost measures with clear inputs to benchmark individual asset and corporate productivity, which will demonstrate efficient use of Amtrak's resources;	*Efforts are underway to develop key perrformance metrics, unit costs and external benchmarks, consistent with recommendations in Amtrak's Strategic Reform Intiatives (SRI) plan.*	10/1/2005	Underway	TBD	Operations, Planning and Analysis and Finance Depts.	Other Amtrak Departments	Adequate information and staffing resources	Monitoring and reporting procedures to be defined

• Develop a cost containment strategy that uses these new cost measures and guides the cost reduction actions across all departments; and • Continue the use of and seek more opportunities to use cost containment practices that are widely used in the railroad industry, including a spend analysis of goods and services procured, benchmarking, outsourcing, and efficiency reviews.	*Performance metrics, unit costs and external benchmarks are part of broader performance measurement framework, currently in development, that includes among its objectives cost control and improved efficiency and productivity. Preliminary planning is underway to assess the integration of this performance-based framework into budgeting and accounting systems.*	10/1/2005	Underway	TBD	Operations, Planning and Analysis and Finance Depts.	Other Amtrak Departments	Adequate information and staffing resources	Procedures to be defined
<u>Procurement (General)</u>								
To ensure that Amtrak acquisition management practices support sound business decisions and the efficient nd effective use of federal funds provided to Amtrak, we recommend that the Secretary of Transportation direct the Federal Railroad Administration to take the following three actions:								
• Increase oversight by requiring Amtrak to submit a plan, possibly as part of the company's application for grant funds, identifying the specific actions that will be taken, consistent with the recommendations outlined below, to improve its acquisition management practices.								

• Review and provide comments on this plan to Amtrak and work with the Amtrak management and staff to develop the most cost-effective approach(es) to improving acquisition management practices. The approach(es) developed should ensure that Amtrak, FRA, and others, as appropriate, have adequate information on which to make business decisions regarding the acquisition of goods and services and the use of federal resources provided to do so.								
• Report at least annually to Congress on progress being made by Amtrak regarding improvement of its acquisition management. This report should identify any specific actions either Amtrak or Congress should take to facilitate improvement in acquisition management, particularly improvement in its knowledge and information system and the use of acquisition data in identifying opportunities for cost savings.								
To help improve Amtrak's acquisition function and better promote efficiency, effectiveness, and the accountability when acquiring goods and services, we recommend that Amtrak's president work with the vice president of procurement to take actions that will address the various issues raised in this chapter. These issues, along with the five specific recommendations to address them, are shown in Table 11:								
Table 11 (Page 127): – Acquisition Management								

(Specific)								
<u>Issue</u> Distributing and promoting current procurement policies and procedures								
Ensure that all departments receive information on procurement policies and procedures, similar to the presentations that have already been given to a number of departments, and ensuring that all departments are held accountable for following those policies and procedures.								
	While Procurement presentations were made to those departments which constitute the majority of Amtrak's procurement spend (approximately 95%), additional presentations will be made to the four staff departments not previously addressed. In addition, a refresher presentation will be made to the major spend departments that targets their project managers, budget personnel and C.O.T.R.'s.	2/13/2006	Refresher Training Scheduled	4/28/2006	M. Rienzi	Procurement Directors		Amtrak Procurement Manual
Enhancing the role of the centralized procurement function	*Finally, Amtrak's procurement manual and delegation of contracting authority is published on the Amtrak intranet.*							
Take additional action to become more integrated into the planning of all service acquisitions, similar to the actions Amtrak's human resources and labor relations departments are taking with regard to awarding health benefits contracts.								

Building greater adherence to established procurement procedures	*In addition to numerous ad hoc meetings with all departments, Procurement has regularly scheduled meetings with Engineering and Mechanical to review their procurement requirements. Further, Marketing, Amtrak Technology and Police communicate routinely via project reports.*	On-Going	On-Going	On-Going	M. Rienzi			Amtrak Procurement Manual
Develop an action plan to better ensure that acquisition policies and procedures are communicated, followed, and enforced. This includes:								
• Ensuring that user departments required to procure goods and services thorough the procurement department cannot acquire them independently;								
• Ensuring that services are acquired competitively to the maximum extent possible, such as enforcing the requirement to obtain justifications for noncompetitive acquisitions;	*While it is extremely difficult, if not impossible, to develop a control procedure that precludes the actions of an individual, we can and do control the mechanism that provides payments to vendors which we use to police the procurement procedures. It should also be noted that Amtrak's delegation of Contracting Authority allows the Chief Operating Officer to take a necessary procurement action in the event of an emergency situation (Fire, Derailment, etc.) that threatens service disruptions or the safety of Amtrak's patrons, employees or the general public.*							

• Ensuring that changes increasing the cost of contracts are approved in accordance with current delegation of authority, which requires that approvals are based on the cumulative value of contracts, not the incremental value of change orders; and	*Justification for non-competitive procurement has now been incorporated into the eTrax system to facilitate this requirement and provide a permanent record of the justification requirement.*	Complete	On-Going	On-Going	M. Rienzi	A. Bridges		Amtrak Procurement Manual. Board Delegation of Authority. eTrax System.
• Ensuring the appropriate use of payment requests by enforcing the requirement that payment requests not exceed $5,000 and ensuring that they are not used when a contract and corresponding purchase order are in effect for a particular vendor.	*As noted in our meetings with GAO and in our written comments to the GAO draft report, the current delegation of authority language is poorly written. We have requested a change to the delegation of authority to allow procurement staff to issue change orders "up to the cumulative value of their change order authority."*	Complete	In-Progress	To be determine d	M. Rienzi	A. Serfaty		Request to amend the Board Delegation of Authority to be submitted to Board of Directors this spring.
Providing better control over acquisition of outside legal services	*As noted previously the Vice President of Procurement uses the eTrax system to monitor all Payment Request activity over $5,000.*	Complete	On-Going	On-Going	M. Rienzi			Vice President of Procurement reviews and approves all Payment Requests over $5,000 in the eTrax System.
Together with the law and finance departments, develop standardized acquisition policies and procedures for acquiring outside legal services to ensure that								
• Acquisition of outside legal services is analyzed to identify opportunities to control and reduce spending;								

• Documentation specifying the terms and conditions of the work to be prepared;	*Amtrak is reviewing its current legal spending and the firms it utilizes to identify areas of expertise which may be appropriate for the competitive process. As the GAO was informed, competitive bidding is not a recognized best practice in the private sector; however, the department will initiate a pilot exercise in FY06 to analyze its application to legal services beyond those efforts it has already undertaken. The Amtrak Law department has also installed matter management software in FY05 and is implementing an electronic invoicing platform that will allow department management to analyze its legal costs more effectively. This data is being used to track legal fees against matter budgets and identify potential savings. The GAO staff was made aware of these improvements.*	1/1/2006	Identifying areas of expertise appropriate for competitive process.	3/1/2006	A. Serfaty	W. Herrmann		W. Herrmann
• Attorneys completely and consistently review invoices for compliance with Amtrak's billing guidelines;	*The Law department's Litigation Guidelines have been revised to require an engagement letter in each matter -- rather than just the first time a law firm is engaged -- outlining the scope of the representation, the individuals assigned, and the rates to be charged.*	1/1/2006	completed	1/1/2006	A. Serfaty	W. Herrmann		Regular Board Updates
• The law department follows Amtrak policy by providing approved invoices to the accounts payable section for payment; and	*The department will conduct training for in-house attorneys in conjunction with the revised Litigation Guidelines and its billing requirements.*	1/1/2006	First meeting held 1/5/06	6/1/2006	A. Serfaty	W. Herrmann		Regular Board Updates

• Key duties, such as authorizing, reviewing, and receiving payments for outside legal services, are segregated, and that attorneys not be allowed to create the edit payees' names and addresses.	*As was explained to the GAO, it was impossible to process 100 page invoices electronically through Amtrak's payment processing system. The department has modified its processes for lengthy invoices by requiring that legal vendors provide a summary invoice that is provided to Accounts Payable. Legal Settlements will continue to be reviewed by at least two, and generally three, attorneys for approval and payment.*	1/1/2006	completed	1/1/2006	A. Serfaty	W. Herrmann		Regular Board Updates
Addressing knowledge and information system problems	*As the GAO was advised, beginning in 2004 all law firm payments were made directly from Accounts Payable to the legal vendor and checks were no longer returned to the Law department for processing. The department will continue to require at least two and three levels of review for payment of legal settlements. In order to maintain confidentiality, such payments will be processed directly by Accounts Payable according to information contained in the settlement agreement as identified by the attorney and appropriate reviewers. Settlement agreements will be maintained in the Law department case files for audit purposes.*	1/1/2006	completed	1/1/2006	A. Serfaty	W. Herrmann		Regular Board Updates

• Create an automated, centralized spend analysis system for capturing the type of reliable and complete spending data needed to identify opportunities to leverage Amtrak's buying power and provide better management and oversight of purchasing activities and suppliers. The system should include features that would								
• Provide data on what categories of goods and services are being acquired; how many supplies are being used for specific categories; and how much is being spent on specific categories, in total and for each user department and with each supplier; and	*Amtrak's Procurement and Materials Management System is out of date and scheduled for replacement in FY2008-2009 as part of the replacement of Amtrak's suite of financial systems (SAP). A spend management module will be requested as part of that program. An option would be to purchase the ARIBA Spend Management Module as an expansion to eTrax. However, budgetary costs are $1.7M which couldn't be requested until FY07. Given the short differential in time, it is prudent to incorporate this tool as part of the new suite of financial systems.*							
• Ensure that data are more reliably retrievable on an automated and repeatable basis.								

Oversight - (General) To strengthen the oversight of corporate performance and to increase the accountability of Amtrak's anagement for achieving the goals and objectives it establishes, and to provide the needed transparency among key internal and external stakeholders, we recommend that the chairman of Amtrak's board and the board members take the following three actions:								
• Develop policies related to the oversight of corporate performance and the specific procedures to be used to implement these policies;								
• Identify, in consultation with Amtrak's president and senior management, the type and frequency of information required to implement the polices and procedures for oversight; and								
• In conjunction with Amtrak's management, assess the financial and other resources that will be required to develop the measures and information required to conduct cost-effective oversight, and prepare an action plan to implement needed changes in information and data systems to provide the reports and other documents required to meet the oversight policies and procedures adopted.		TBD	NA	TBD	TBD	TBD	Direction from Board per response above	The Board is requiring regular updates on the progress of Amtrak's Strategic Initiatives
To strength DOT and FRA oversight of Amtrak's performance, we recommend that the Secretary of Transportation direct the Federal Railroad Administrator to take the following four actions:		TBD	NA	TBD	TBD	TBD	Direction from Board per response above	The Board is requiring regular updates on the progress of Amtrak's Strategic Initiatives

• Work with Amtrak's board and management to develop measures of overall corporate performance and related outcomes;								
• Require Amtrak to repot on these measures of corporate performance and outcomes at least annually;								
• Identify and make known to Amtrak the range of potential consequences of not meeting, or making sufficient progress toward, a minimum level of performance on the corporate measures and outcomes; and								
• Report annually to Congress on the results of FRA's oversight of Amtrak's corporate performance and Amtrak's progress toward meeting minimum levels of performance and outcomes. (This report should identify any specific actions Congress should consider taking to better facilitate progress on achieving specific outcomes or to identify alternative ways the outcome might be achieved.)								